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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 14 1997

Federal Communications Commission
Office of Secretary

In the Matter of)	DOCKET FILE COPY ORIGINAL
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 97-68
FM Broadcast Stations.)	RM-8999
(Hayfield, Virginia))	
)	

COMMENTS OF
MID ATLANTIC NETWORK, INC.

On behalf of Mid Atlantic Network, Inc., we hereby submit these Comments on the *Notice of Proposed Rule Making* ("NPRM") in the captioned proceeding, released by the Commission on February 21, 1997.¹ The proposed allotment should not be made because, as the Commission implicitly recognized, Hayfield is not a community for allotment purposes.

As the Commission noted, either incorporation or listing in the U.S. Census is sufficient to demonstrate a community's status for allotment purposes. However, Hayfield is neither incorporated nor listed in the U.S. Census. Thus, the Petitioner is required to demonstrate whether Hayfield "has any commercial establishments, social, economic, cultural or religious organizations, municipal services or government units that identify themselves specifically with Hayfield." *NPRM* ¶ 3.

Hayfield is completely devoid of any indicia that would qualify it as a community for allotment purposes. Enclosed are letters from Mr. James L. Longerbeam, Chairman of the Frederick County Board of Supervisors (*Exhibit 1*) and from Eric R.

¹Mid Atlantic Network is the licensee of WINC(AM)/WINC-FM in Winchester, Virginia and thus has standing by virtue of its stations in the same market as the proposed Hayfield allotment.

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Lawrence, a Planner with the Frederick County Department of Planning and Development (*Exhibit 2*). Both of these County officials, who are quite familiar with the area, point out that Hayfield is not considered to be a separate community.

As Mr. Longerbeam notes, "the County of Frederick does not consider this location as a community. Hayfield is the name of a crossroads. It is the intersection of U.S. Route 50 and Secondary 600, west of Winchester. . . . All services for this area are provided by the County of Frederick. There are no separate water, sewer, fire, rescue, police, or school services."

Mr. Longerbeam notes that the only businesses at the intersection known as Hayfield are "a small grocery store, Hayfield Market, which I believe has recently closed, a motel, an Assembly of God Church, and a few houses." Enclosed is a copy of an article from the *Winchester Star* newspaper dated March 1, 1997 (*Exhibit 3*), reporting the closing of the Hayfield Contract (Postal) Station, which had been located in "a tiny office in the corner of the Hayfield market on U.S. 50 West." The reason for the closing is because the Hayfield Market is indeed closing in May. The only real post office in Hayfield closed 30 years ago in favor of the Contract Station, which is now gone as well. The article further states that people who had mailboxes at the Hayfield Market "will have the option of either getting a post office box at the Winchester or Gore Post Offices or constructing mailboxes at their homes for rural route mail delivery" Thus, Hayfield is not even a postal address.

Mr. Lawrence points out that "Hayfield might be better referred to as an area of the County, rather than a community. Hayfield does not have its own local government; the Frederick County government maintains jurisdiction over the entire Hayfield area." He

also points out that the Frederick County Comprehensive Plan "recognizes communities in Frederick County which contain significant populations, housing, and commerce. . . . The Comprehensive Plan does not address any long range planning issues for Hayfield," because Hayfield is not identified as a community center under that Plan. He also states that fire, rescue and police services are provided by the County Sheriff's Department and the County Department of Emergency Services.


Enclosed as *Exhibit 4* are photos taken of the Hayfield area. As can be seen from the photos, it is essentially a rural area with only a few buildings, as noted by the Chairman of the Board of Supervisors.

It is clear that none of the indicia of community status are present in Hayfield and, furthermore, neither the Department of Planning and Development nor the Frederick County Board of Supervisors consider Hayfield to be a separate community within Frederick County. Accordingly, the Commission has no choice but to dismiss or deny the rule making petition filed by Vixon Valley Broadcasting.

Respectfully submitted,

MID ATLANTIC NETWORK, INC.

By:


David M. Silverman

COLE, RAYWID & BRAVERMAN, L.L.P.

1919 Pennsylvania Ave., N.W.

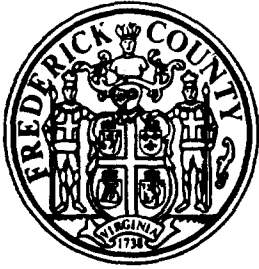
Suite 200

Washington, D.C. 20006

(202) 659-9750

Its Attorneys

April 14, 1997



COUNTY of FREDERICK

Board of Supervisors

540/665-5666

540/667-0370 fax

James L. Longerbeam - Chairman

W. Harrington Smith, Jr.

Shawnee District

Margaret B. Douglas

Back Creek District

Robert M. Sager
Opequon District

Richard C. Shickle
Gainesboro District

Charles W. Orndoff, Sr.
Stonewall District

March 10, 1997

Mr. David P. Lewis
Vice President
Mid Atlantic Network, Inc.
P.O. Box 3300
Winchester, VA 22604

RE: Hayfield

Dear Mr. Lewis:

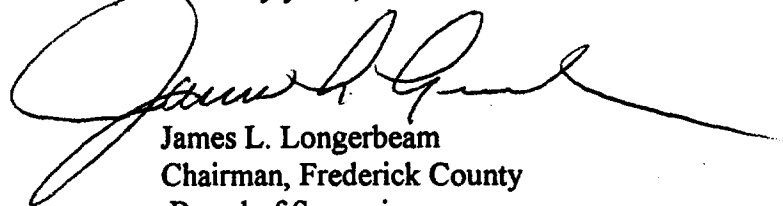
In reply to your questions about Hayfield, the County of Frederick does not consider this location as a community. Hayfield is the name of a crossroads. It is the intersection of U.S. Route 50 and Secondary 600, west of Winchester.

Located at this intersection is a small grocery store, Hayfield Market, which I believe has recently closed, a motel, an Assembly of God Church, and a few houses.

All services for this area are provided by the County of Frederick. There are no separate water, sewer, fire, rescue, police, or school services.

If I may be of any further assistance, please give me a call.

Sincerely yours,



James L. Longerbeam
Chairman, Frederick County
Board of Supervisors

JRR/clt



COUNTY of FREDERICK

Department of Planning and Development

540/665-5651

FAX: 540/678-0682

March 5, 1996

David Lewis, Vice President
Mid-Atlantic Network Inc.
P. O. Box 3300
Winchester, Virginia 22604

**RE: Hayfield, Virginia
Frederick County**

Dear Mr. Lewis:

Hayfield is located in western Frederick County, at the intersection of Routes 50 and 600 (Northwestern Pike and Hayfield Road). Located at a crossroads, Hayfield might be better referred to as an area of the County, rather than a community. Hayfield does not have its own local government; the Frederick County government maintains jurisdiction over the entire Hayfield area.

The Frederick County Comprehensive Plan recognizes communities in Frederick County which contain significant populations, housing, and commerce. These recognized communities are referred to as Rural Community Centers. Hayfield is not identified as a Rural Community Center by the County's Comprehensive Plan. The Comprehensive Plan does not address any long range planning issues for Hayfield.

Population and housing characteristics are not directly available for Hayfield, as it is not a recognized town or city by the U.S. Census Bureau.

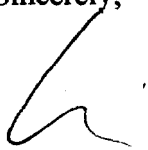
In reference to public service provisions for Hayfield, Frederick County is responsible for providing the majority of these services. The County Sheriff's Department and the County Department of Emergency Services provide fire/rescue/police services to Hayfield. Three county fire and rescue companies are located within five (5) miles of the Route 50/ Route 600 intersection. The County School Board has an elementary school located about one (1) mile north of this intersection. No public utility provisions for water and sewer presently exist in Hayfield.

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Mr. David Lewis
March 5, 1997

Within Frederick County, the roads are predominantly state maintained. The Virginia Department of Transportation is the state governmental agency responsible for such roads.

Feel free to contact me with any questions concerning this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric R. Lawrence', with a stylized flourish at the end.

Eric R. Lawrence
Planner II

ERL/bah

ad Letter Office: Mail Station Closes After 130 Years

By LISA J. DAVIS
The Winchester Star

Friday, the last letter was from the Hayfield Contract bringing to an end an industry that has been in the rugged hills of northwestern Fred-
dunty for 130 years.

son, Joyce Locke had sorted a bundle of mail to come in a tiny office in the corner Hayfield Market on U.S. 50 which she has owned with
shand, Jim, for seven years.

Lockes have decided to leave the market in May, and the industry must go with it.

Hayfield Contract Station converted from a post office 30 years ago. Contract station operate much like post office except that a business, such as Hayfield Market, is contracted to do work for the U.S. Postal Service, sorting mail, selling stamps and the like. Joyce Locke has been running the contract

station added a quite a bit of work to her daily duties operating the market, Locke said parting with it is bittersweet.

For seven years, Locke has operated the market, opening its doors each morning at 6:30 to greet people in search of coffee.

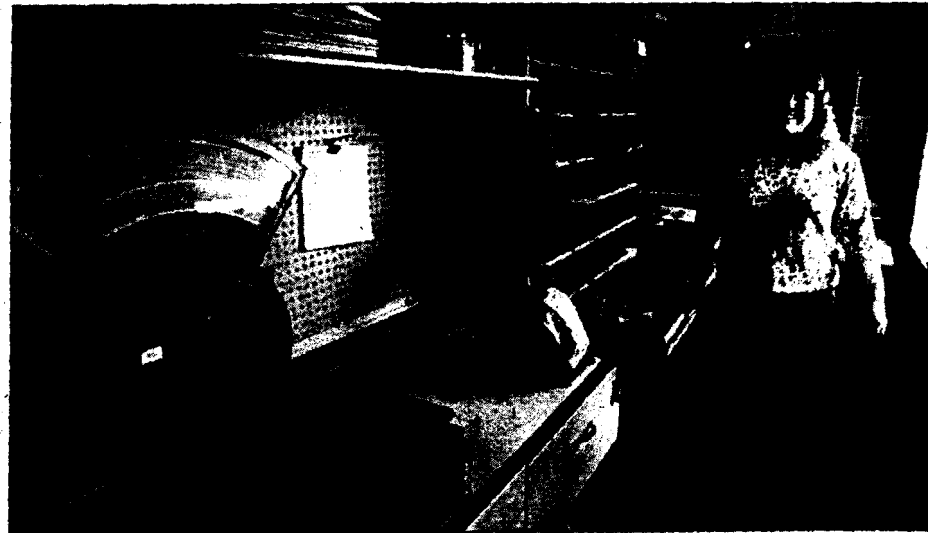
Most days are spent yammering with customers, who have become close friends over the years, Locke said. Now, the conversation inevitably turns to the market's approaching closure.

"Well, you're going to be missed," Jonathan Foster told Locke Friday afternoon as he wrote a check for a movie and lunch. "This was my favorite store because it was more homey than going down the road."

Foster doesn't live far from the market, and for more than 10 years it has been a regular stop on his route to work in Shawneel-
and.

Locke said there are many people who

See Mail Page B5



Joyce Locke stands in the mail Contracting Station in the Hayfield Market. The station,

which started as a full-fledged post office 130 years ago, closed Friday.

Star Photo by Scott Mason

Mail

from Page B1

ple who stop at the market as part of their daily ritual.

"Some of them even have mailboxes where they live, but they get their mail here," she said. "There are a lot of people who have had boxes here forever."

People who have mailboxes at the market will have the option of either getting a post office box at the Winchester or Gore post offices, or constructing mailboxes at their homes for rural route mail delivery, said Randy Painter, supervisor at Winchester's main post office.

Locke attempted to sell the market last year, but didn't get any bites.

She said the next three months are her last, for sure.

"This time it feels like it's just right," she said. "It's just too much for me to be here all the time."

Locke has had help running the market from her 15-year-old son, Jimmy, and her friend Pam Newlin, she said. But even with their assistance, she and her husband haven't been able to take a vacation since buying the store.

Nevertheless, Locke said the transition from working every day to being able to spend the early morning hours in bed will, in some ways, be tough.

"Every day that it gets closer, I feel more like bawling my eyes out," Locke said of the market's impending closing.

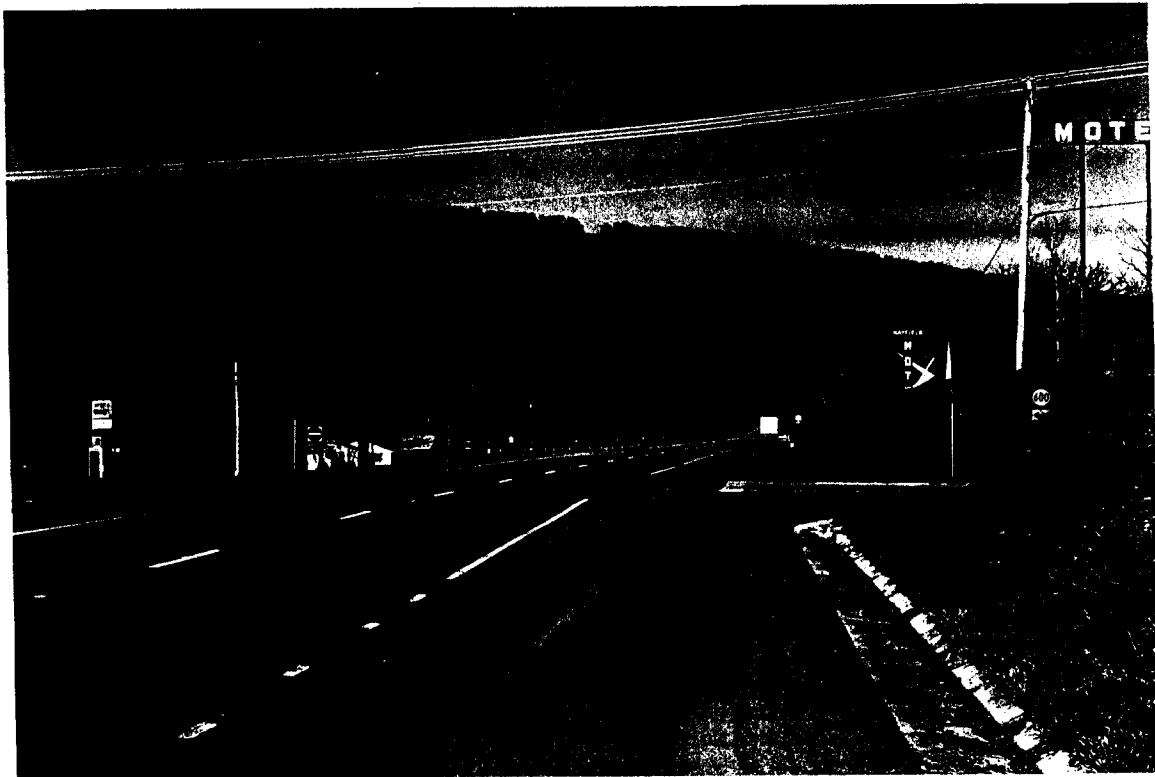
Hayfield, VA

P. 1 of 3

EXHIBIT 4



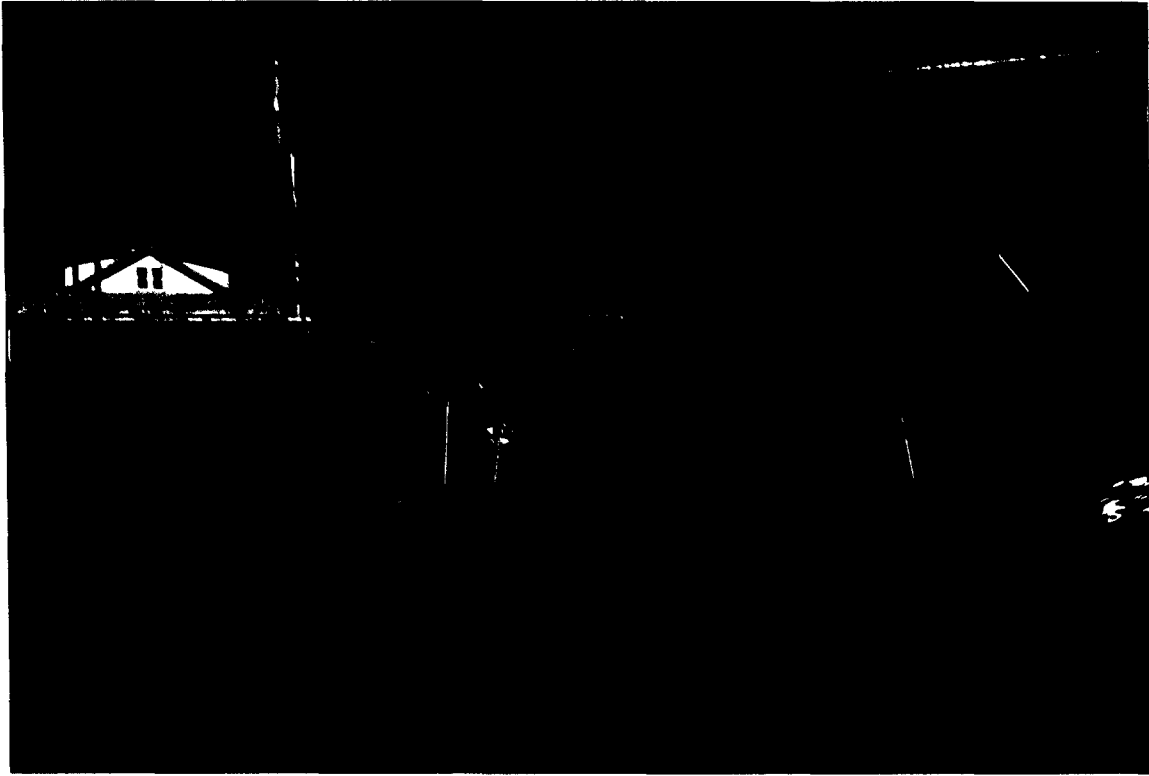
Looking East on Rt 50 at Rt 600



Looking West on Rt 50 at Rt 600

Hayfield, VA

p2 of 3



Looking North on Rt 600



Looking South on Rt 600

Hayfield, VA

p. 383



Looking South on Rt 600 at Rt 50



Hayfield Market on Rt 50 (closing 5/97)

CERTIFICATE OF SERVICE

I, Sharon K. Mathis, a secretary with the law firm of Cole, Raywid & Braverman, L.L.P., do hereby certify that copies of the foregoing "Comments of Mid Atlantic Network, Inc." were sent via first class, postage prepaid, United States mail, this 14th day of April, 1997, to the following:

Victor A. Michael Jr.
President, Vixon Valley Broadcasting
c/o Magic City Media
1912 Capitol Ave., Suite 300
Cheyenne, WY 82001



Sharon K. Mathis